IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 16680 of 2006
Date of Decision: Oct.19,2006

Balbir Singh ..... Petitioner

Versus

State of Punjab and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. Gurnam Singh, Advocate
for the petitioner.

....

ASHUTOSH MOHUNTA, J.

Challenge in this petition under Articles 226/227 of the Constitution of India is to the issuance of a writ in the nature of certiorari quashing the order dated 12.4.2006 (Annexure P-9) passed by the Director, Village Development and Panchayat Department exercising the powers of Commissioner, whereby the order dated 1.2.2005 passed by the Addl. Deputy Commissioner-cum-Collector, Ludhiana, declaring the petitioner to be owner in possession of the land in dispute, has been set aside and held the Gram Panchayat to be the owner thereof.

The primary contention raised on behalf of the petitioner is that he has been in continuous and uninterrupted possession of the land measuring 16 Kanals situated in the revenue estate of village Bhama Kala, Tehsil and District Ludhiana (for short `the land in dispute') since the year 1959 and the possession has become adverse to the real owner with the efflux of time. He also takes the aid of the letters dated 9.2.1988 (Annexure P-4) and 27.3.1990 (Annexure P-5) issued by the Department of Revenue to all the Deputy Commissioners in the State of Punjab directing them not to dispossess the lessees in the lands belonging to Government and the Gram Panchayats.

We have heard the learned counsel for the petitioner and gone

through the case file meticulously.

A perusal of the impugned order dated 12.4.2006 (Annexure P9) passed by the Commissioner shows that eviction proceedings against the petitioner had already been passed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 which order has never been challenged before any higher authority or Court and no stay order has been passed by any Court of law. As per Jamabandi for the year 1984-85 the petitioner has been shown as Gair Marusi occupant and his possession has been shown as illegal. In column No.12 it has been mentioned that ownership of the land in dispute has been changed in favour of the Gram Panchayat vide mutation 2108. In the copy of Jamabandi for the year 1994-95 (Annexure P-2) the Gram Panchayat has been shown as the owner of the land in dispute and the possession of Balbir Singh remains as Gair Marusi tenant. The same is the position with regard to the ownership and possession in the Khasra Girdawari for the year 1996-97.

In view of the fact that the Gram Panchayat is the owner of the land in dispute as per the revenue record and the possession of the petitioner is illegal without payment of any land revenue or lease money, we do not find any merit in the submissions made by the counsel appearing on his behalf.

Consequently, we do not find any merit in this petition. It is, accordingly, dismissed in limine.

(ASHUTOSH MOHUNTA)
JUDGE

(NIRMAL YADAV)
JUDGE

19.10.2006
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